

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
STAG WILLIAMSPORT, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 21-11958-NMG
)	
BHN ASSOCIATES, LLC,)	
)	
Defendant.)	
_____)	

ORDER ON STAG WILLIAMSPORT, LLC’S MOTION TO COMPEL

[Docket No. 55]

October 23, 2023

Pursuant to Rule 37 of the Federal Rules of Civil Procedure, plaintiff STAG Williamsport, LLC moves to compel defendant BHN Associates, LLC to respond to various outstanding discovery requests. Docket No. 55. For the following reasons, I grant STAG’s unopposed motion as modified below.¹

This case arises from an unsuccessful real estate transaction between STAG and BHN. The two parties entered into an agreement for the purchase and sale of property, but the transaction was not completed. Nevertheless, STAG alleges that BHN continues to hold STAG’s \$450,000 deposit in escrow. Docket No. 1-3 at 1. STAG brings claims for breach of contract and breach of the implied covenant of good faith and fair dealing against BHN. *Id.* at 6. BHN has filed a counterclaim for breach of contract and declaratory judgment. Docket No. 28.

¹ On June 23, 2023, Judge Gorton referred the instant motion to the undersigned. Docket No. 56.

On June 22, 2023, STAG filed the instant motion. Docket No. 55. On June 27, 2023, BHN's counsel filed a motion to withdraw and for a thirty-day stay to allow BHN to obtain successor counsel. Docket Nos. 57, 59. STAG opposed the motion on June 29, 2023, and this Court held a hearing on the motion to withdraw on July 10, 2023. Docket Nos. 60, 66.² On July 11, 2023, this Court issued a report and recommendation on the motion to withdraw recommending that Judge Gorton grant the motion with some modifications. Docket No. 68. On August 1, 2023, Judge Gorton accepted and adopted the report and recommendation, which stayed the case for thirty days and gave BHN thirty days to find successor counsel or to file a status report regarding its efforts to do so. Docket No. 72.

On August 16, 2023, BHN filed a status report informing this Court that it had obtained successor counsel in New York, but that it was still seeking local counsel. Docket No. 74. BHN also moved for three additional weeks (until September 6, 2023) to obtain local counsel, which this Court allowed on August 17, 2023. Docket No. 76. On September 6, 2023, BHN filed a status report informing this Court that it had obtained local successor counsel who would be filing a notice of appearance "within the next couple of days." Docket No. 77. On September 7, 2023, STAG filed a motion for entry of default against BHN. Docket No. 78. On October 2, 2023, STAG filed a motion to dismiss for failure to prosecute and a renewed motion for entry of default. Docket No. 79. As of the date of this order, successor counsel for BHN has not entered an appearance, and BHN has not responded to the motion to compel. Accordingly, this Court grants the unopposed motion to compel as follows:

1. Any requests for admission that BHN has not answered are deemed admitted³;

² Judge Gorton refereed this motion to the undersigned on June 30, 2023. Docket No. 61.

³ "Under Federal Rule of Civil Procedure 36(a), after a party serves a written request for

2. BHN must provide answers to interrogatories and any outstanding responsive documents to STAG within thirty days of the date of this order; and
3. BHN must provide a corporate representative for the noticed 30(b)(6) deposition within thirty days of the date of this order.

This Court declines to award fees and denies STAG's other requests at this time.

/s/ Jennifer C. Boal
JENNIFER C. BOAL
United States Magistrate Judge

admission, '[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection' Foss v. Marvic Inc., 994 F.3d 57, 63 (1st Cir. 2021) (alterations in original) (quoting Fed. R. Civ. P. 36(a)(3)).